

**Region 6 Environmental Justice Program
NEJAC Update - December, 1998**

I. OVERALL DEMOGRAPHIC DESCRIPTION OF THE REGION/PROGRAM OFFICE:

EPA Region 6 covers the five state geographic area of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. A significant portion of the Region's population is minority and low income. Texas, Louisiana and New Mexico lead the Region in minority and low income populations: Texas = 39.4% Minority; 27.6% Low-income; Louisiana = 34.2 % Minority; 36.3% Low-income; New Mexico = 49% Minority; 31% Low-income. (Based on 1990 U.S. Census Data)

II. PROGRAM DESCRIPTION:

The Region 6 Environmental Justice (EJ) Program seeks to ensure that no segment of the population is disproportionately impacted as a result of the environmental decision-making process. Region 6 management has announced plans to reorganize the Region 6 Environmental Justice Program in FY99. The reorganization will establish a Region 6 Office of Environmental Justice staffed by a Director and approximately five full-time staff members. Currently, the Region 6 EJ Program is implemented via the efforts of a Regional EJ Coordinator, 2 part-time and one full time staff , 1 temporary employee (on detail assignment to EJ), a Regional Workgroup and other regional office staff located in various programs.

III. PROGRAM GOALS:

- Development/implementation of a regional EJ implementation plan;
- Promoting identification of EJ populations through the use of EJ indexing tools;
- Promoting and providing opportunities for public participation and involvement;
- Promoting stakeholder partnerships;
- Identification and implementation of approaches and solutions, sanctions, and remedies that are responsive to the impacted community's needs and desires.

IV. KEY ENVIRONMENTAL JUSTICE ISSUES/INITIATIVES/STRATEGIES:

- **EJ Policy and Procedures (EJ Implementation Plan)** - The Region is currently developing an EJ implementation plan which addresses specific activities and approaches to be implemented by various programs, i.e., NPDES, RCRA, enforcement, etc. The Region 6 EJ implementation plan development process includes a public review and comment period. The public comment period on the proposed plan is targeted to begin in late January, 1999.

- **Calcasieu Parish initiative** - Region 6 established an internal Calcasieu Parish multi-media Team in the Summer of 1998; the team meets on a regular basis for coordination and to identify and develop strategies to respond to Calcasieu Parish issues. So far, the team has coordinated the development of comprehensive responses that were compiled and provided to Parish residents in two citizens meetings held thus far with the Deputy Regional Administrator, managers and staff.
- **Kelly Air Force Base Community Representatives Meeting:**
On October 29, 1998, the Deputy Regional Administrator and EJ Coordinator met with residents representatives in San Antonio. Specific concerns cited included (1) the lack of access to information from Kelly AFB, i.e., citizens requested the draft ATSDR study from Kelly, their request was denied;(2) monitored natural attenuation of groundwater contamination in off-base (residential) areas; (3) radioactive contaminants disposed of on the base property; (4) lack of access to EPA funding to hire technical/legal advisor (5) timeframe for clean-up (concern that clean-up is not progressing); some would like the site listed on NPL to speed up clean-up and provide access to Superfund Technical Assistance Grant (TAG) grant funding.
Note: A Department of Defense Technical Assistance for Public Participation (TAPP) grant has been awarded to the community. Through the TAPP grant, a technical advisor has been hired to assist community members of the Restoration Advisory Boards and Technical Review Committees.
- **Region 6 Awards over \$671,000 in Environmental Justice Financial Assistance -**
Region 6 put into action its commitment to establish and broaden partnerships with communities, universities and other entities to address EJ concerns in the Region. During FY98 the Environmental Justice Program awarded EJ Small Grants funding (\$200K), State and Tribal grant funds (\$100K) and a significant amount of Regional Administrator's discretionary funding (\$231.5K) to various EJ grass roots organizations, tribal governments, states and educational institutions. In addition, \$140K was awarded to two states for EJ activities at Superfund sites. In each case (except State Superfund), projects were selected via a competitive grant proposal process. Activities funded were varied, covering issues ranging from children's health, U.S. Mexico border, native American issues, minority and low-income community issues, etc. The Texas Natural Resources Conservation Commission was one of 5 national recipients (the sole Region 6 applicant) to receive a State and Tribal grant for the expansion of its on-going EJ program. **Region 6 Environmental Justice projects funded totaled \$671,500 for FY98.** (This dollar amount **does not** include other EJ projects funded through the EJ/P2 grant program, nor other program offices such as the Tribal Program office, Water Quality, Superfund, etc.)
- **RA/DRA Meetings with Key EJ Groups** - The Regional Administrator, Gregg Cooke and Deputy Regional Administrator, Jerry Clifford, and EJ staff held a series of field visits in various Region 6 locations to meet with key environmental justice contacts.

Meetings were held in Albuquerque, New Mexico; Houston and San Antonio, Texas, Baton Rouge and Lake Charles, Louisiana and Tulsa, Oklahoma. Meeting attendees included community residents/representatives, and EJ organization representatives. These meetings served as opportunities for communities to identify local issues and concerns. In some cases, EPA used these meetings to provide follow-up information regarding citizens requests.

- **Region 6 Environmental Justice Newsletter** - Region 6 recently published the first edition of its quarterly Environmental Justice Newsletter. In addition to community input, the newsletter will feature up-to-date environmental news and information of interest to the public. The public has been invited to provide input to the Region on possible features, improvements, etc.

V. SIGNIFICANT EXAMPLES OF EJ IMPLEMENTATION IN SPECIFIC REGION/PROGRAM OFFICES:

Enforcement Division:

Mossville Public Water Supply Tested:

The EPA, Region 6, Public Water Supply enforcement team coordinated complete sampling inspections for ethylene dibromide (EDB) and ethylene dichloride (EDC) for the Mossville Water Works District #2 in Louisiana. The sampling inspections were conducted and analyzed by the EPA Houston Laboratory. The results show “non detect” for volatile compounds scanned. The sampling was carried out in response to citizens testimony at prior NEJAC meetings. In addition, the EPA, Region 6 Public Water Supply program (**Water Division**) indicated that no chemical violations were found for Mossville from 1978 to June 1998. Two total coliform rule violations occurred for the Mossville system in 1997.

Calcasieu Parish Enforcement Initiative:

- Region 6 EPA Enforcement Division has conducted inspections at 16 of the 35 facilities in Calcasieu Parish targeted for inspection in the Calcasieu Basin area, as of the end of September, 1998. **This represents a 233% increase in inspections for Calcasieu Parish for FY98 compared to FY97.**
- In response to inquiries regarding the 1994 EDC release at the Conoco site, EPA provided information that indicates EPA maintains authority to take enforcement action regarding any environmental violations discovered at Conoco, including requiring corrective action for past releases at the facility (e.g., the 1994 spill), if evidence supports a determination that corrective action is necessary. LDEQ supervised the recovery of the liquid-phase removal of contaminated soil and sediment. EPA indicated that a full analysis of the environmental data will be one of the features of our continuing investigation in the Calcasieu basin.

- **Citizens Checklist for Documenting Suspected Violations:**
EPA has developed a “Citizens Checklist for Documenting Suspected Environmental Violations”. Citizens input on the draft has been requested. This document can be useful in guiding citizens collection of information.
- **Enforcement Audit of LDEQ:**
Region 6 conducted a Compliance Enforcement Oversight audit of the Louisiana Department of Environmental Quality’s enforcement activities in FY98. Region 6 and DEQ have negotiated a plan to address audit findings/recommendations.

Water Quality Division:

Texas NPDES Delegation:

EPA informed Texas Natural Resources Conservation Commission of Region 6 recommendations to incorporate environmental justice into its proposed Texas Pollutant Discharge Elimination System (TPDES) program. Texas did not incorporate the recommended changes. The TPDES program was authorized on September 14, 1998.

Multimedia Permitting and Planning Division (RCRA & Air Permitting/State Oversight):

Shintech Etsu Proposed PVC Facility:

On September 16, 1998, Shintech announced it will suspend efforts to locate in Convent, LA, and now proposes to locate a smaller facility near the Dow Chemical plant in Plaquemine, LA. The company also said they would conduct an outreach program to assess and respond to any local community concerns before applying for a permit. The new proposed facility will include a direct link to raw materials from a pipeline from the nearby DOW Chemical plant to the proposed Shintech facility.

In 1997 Region 6 received Title V petitions from Tulane Environmental Law Clinic, representing several environmental groups, objecting to the proposed Title V permit for the Shintech Polyvinyl Chloride complex in Convent, Louisiana. On September 10, 1997, Carol Browner, EPA Administrator, signed an Administrative Order partially granting and partially denying the petition on technical grounds.

Proposed Landfill in Alsen, Louisiana:

Natural Resources Recovery, Inc. of Louisiana received a permit from the Louisiana Department of Environmental Quality (LDEQ) to build a landfill in Alsen, Louisiana. The landfill collects Construction and Demolition (C&D) Waste, defined as nonhazardous waste generally considered not water-soluble (i.e. metal, concrete, brick, asphalt, roofing materials, etc.), woodwastes and yardwastes. The residents of Alsen (through the Tulane Environmental Law Clinic) have filed a Title 6 complaint with the Environmental Protection Agency (EPA) against LDEQ. The citizens claim that LDEQ failed to perform adequate environmental site assessments prior to permit approval, thereby violating the civil rights of minority residents in Alsen (97-98% of Alsen’s population is

African-American). Residents fear that the noise, dust and odors generated by the landfill will create unnecessary health risks.

Currently, the facility is operating, after receiving LDEQ approval in June 1998. The EPA's Office of Civil Rights (OCR) has responded by accepting the complaint for investigation. The investigation should begin sometime in the next few months.

Sierra Blanca, Texas - Low-level Radioactive Waste Facility License Denied:

On July 7, 1998, the Texas Low-Level Radioactive Waste Disposal Authority's (TLLRWDA) application for a permit to operate the facility was denied by two administrative law judges from the Office of Administrative Hearings. The judges found the site acceptable in 15 of 17 critical areas. However, they denied the permit due to safety concerns.

The TLLRWDA believed that it had proven that safety would not be an issue, and hoped that the TNRCC will overturn the judges' decision. On October 22, 1998, TNRCC denied the license on safety grounds. This action is viewed by environmental justice proponents as a key victory since minority residents alleged that the selection of the Sierra Blanca location inappropriately targeted their community.

Kelly Air Force Base (AFB):

The Air Force has completed a series of ground water wells to identify the extent of the plume east of Kelly AFB, the Air Force is now within the plume. Air emissions from the fuel storage area have been studied and found not to be a problem.

TNRCC Accelerated Vehicle Retirement (AVR) Program State Implementation Plan (SIP):

The AVR program proposed by Texas Natural Resource Conservation Commission (TNRCC) would allow trading of mobile source emissions for stationary sources. The Region 6 Multimedia Planning and Permitting Division, Air Planning Section proposed disapproval of the proposed AVR program. EPA proposed disapproval since the emission test required by the SIP to obtain actual vehicle emissions is no longer available to the public. In a letter dated March 23, 1998, Texas Governor Bush requested that the AVR SIP be removed from the SIP process. The TNRCC repealed the AVR rule from State rules. Office of Air and Radiation is expected to develop a guidance document for a voluntary air emission trading program called economic incentive program. EPA's recommendations in this guidance document should assist the States that develop future scrappage or emission trading programs. The document will also address how best to handle EJ issues relevant to emission trading.

EPA Completes Oversight Sampling at Department of Energy Facilities:

During August 1998, Region 6 Multimedia Planning and Permitting Division conducted oversight sampling of the RCRA cleanup process at Los Alamos National Laboratories (LANL) and Sandia National Laboratory (Sandia). Both of these DOE facilities have nearby environmental justice communities and the sampling was coordinated with the Citizen Advisory Boards for each facility. The sampling at LANL also included ground water sampling on the San Ildefonso Pueblo. The

sampling was closely coordinated to address issues of importance to the Pueblo. Results of the sampling should be available in November.

Technical reviews of Closure and Post-Closure Care Plans for Open Dumps in Indian Country:

EPA, Region 6 Solid Waste staff completed a technical review of Closure and Post-Closure Plans on Open Dumps for seven Pueblos in New Mexico. The purpose of these plans is to comply with the October 9, 1998-deadline under 40 CFR 258.60 criteria. The complete technical review plans were for: The Pueblo of Acoma, The Jicarilla Apache Tribe, The Pueblo of Taos, The Pueblo of Laguna, Pueblo of Santa Clara, Pueblo of San Juan, and the Pueblo of Picuris.

Generic Model for Tribal Solid Waste Management Codes, Ordinances and Regulations in Indian Country:

Staff from Region 6 Solid Waste Section is currently drafting a generic model for Tribal Solid Waste Management (SWM) Codes, Ordinances and Regulations in Indian Lands. The purpose of the generic model is to assist the tribes in managing and regulating the storage, collection, transportation, handling, treatment and disposal of solid waste in Indian Country; to protect the health and welfare of present and future citizens of the Tribe's by providing for prevention and abatement of air, surface, and groundwater pollution and other public health and environmental hazards related to Solid Waste Management. Region 6 is planning to send this document to all Tribal Leaders.

Generic Model for Tribal Closure and Post-Closure Care Plans for Open Dumps in Indian Country:

Region 6 drafted a closure and post-closure plan for solid waste management in Indian Lands. The purpose of the generic closure plan is to assist the tribes in meeting the October 9, 1997 deadline and to close their open dumps pursuant to 40 CFR §258.60 for the Municipal Solid Waste Landfill. Region 6 used a peer review process to finalize the document. Region 6 coordinated this review process with Indian Health Service (IHS) and EPA headquarters before finalizing the document. Region 6 is planning to send this document to all Tribal Leader. The guidance document will be available through the Regional Internet Solid Waste Web Site.

Site-Specific Rulemaking Flexibility Requests for Municipal Solid Waste Landfills in Indian Lands per 40 CFR §258:

EPA intended to offer permitting program approval to tribes as well as states under RCRA, Subtitle D. A recent court decision rules (Campo decision), however, that EPA cannot treat tribes like states and approve their permitting programs. The Agency has therefore developed a site-specific rulemaking process to meet its goal of providing flexibility to owners and operators in Indian Country. Under this process, an owner or operator can request to use certain alternative approaches or a waiver to meet the performance standards at a specific Municipal Solid Waste Landfill (MSWLF) site.

Proposed Commercial Municipal Solid Waste Landfill on the Nambe Indian Reservation:

During the Spring of 1998, BIA requested that EPA comment on an Environmental Impact Statement (EIS) regarding the construction of a commercial Municipal Solid Waste Landfill on the

Nambe reservation. Region 6 provided comments on April 30, 1998. The purpose of the EIS is to permit the use of Tribal lands for the construction and operation of a commercial solid waste management facility.

The EPA Solid Waste section provided comments related to Title 40 of the Code of Federal Regulations §258 for Municipal Solid Waste Landfills.

Region 6 Solid Waste Tribal Assistance:

EPA Region 6 has developed draft generic closure and post-care closure plans for all Tribes. The purpose of the closure plans is to assist the tribes in meeting the October 9, 1997 deadline, and to close their open dumps pursuant to 40 CFR §258.60 for the Municipal Solid Waste Landfill. The Region is coordinating this review process with Indian Health Service (IHS). Region 6 is currently reviewing the Cherokee Nation Sanitary landfill under the new site-specific rulemaking process to meet EPA's goal of providing flexibility to owners and operators in Indian Country. The Cherokee Nation Flexibility package is expected to be complete by January 1998.

Solid Waste Training for Tribes:

EPA Region 6, All Indian Pueblo Council (POEP), State of New Mexico Environmental Department (NMED), and BIA are planning solid waste training in Albuquerque and Santa Fe, New Mexico. These courses will be held over the next three months.

Superfund Division:

Minority Worker Training Program - Brownfields Showcase Community:

The National Institute for Environmental Health Sciences (NIEHS), using sponsored EPA funding, has awarded funding to Xavier University in New Orleans, as a subgrantee of Clark Atlanta University, under two cooperative agreements to develop and implement two Minority Worker Training Program (MWTP) grants. Both projects have two main goals - 1) to work in partnership with unions via apprenticeship programs, local community-based organizations, and local academic institutions to implement a comprehensive education and job training program that will address clean-up and redevelopment in the target areas, and 2) to assist the local community colleges and Historical Black Colleges and Universities in promoting worker health and safety through education and training delivered by these academic institutions.

A Brownfields Showcase Community grant for \$220,572 is targeted for training of residents living in the entire west Dallas brownfields community. This program will implement an outreach and recruitment strategy to identify and train 15 participants each year, over a two-year period, to meet the minimum criteria for program participation. Classes include study skills, life skills, math skills and HAZMAT training. Training also includes brownfields related pre-apprenticeship technical training in construction and environmental remediation as well as job development and job placement.

RSR Smelter Site - Dallas, Texas:

The names of the nine certified students who completed the 80 hour HAZMAT training have been

sent via the RSR Smelter Remedial Project Manager, to the contractors who were selected to remove the RSR stacks. It is hoped that the students will be selected for employment during this phase of the removal.

A new one-year \$150,000 grant, targeted specifically for training 15 residents living near the RSR Smelter Superfund site in west Dallas, was awarded to Xavier University-Clark Atlanta University. The project period started in October 1998. This project is the result of EPA's negotiations with New Start, a west Dallas community group. Classes include study skills, life skills, math skills and HAZMAT training. Training also includes brownfields related pre-apprenticeship technical training in construction and environmental remediation as well as job development and job placement.

McCommas Bluff Landfill, Dallas Texas:

EPA has selected Texas A&M University, Texas Engineering Extension Service (TEEX) for a Brownfields Job Training and Development Demonstration Pilot. TEEX will concentrate its workforce development efforts in Dallas, Texas, which is a Brownfields Assessment Demonstration Pilot. The focus of the Job Training Pilot is to provide hazardous waste training and training in the operation of heavy equipment at environmental assessment and cleanup projects. The target population will be unemployed and other disadvantaged residents of the Simpson-Stuart neighborhood of southeast Dallas.

TEEX plans to train 64 students with the EPA grant, achieve a 75% placement rate, and track students for up to one year. Participants to be targeted will be unemployed and other disadvantaged residents of the Simpson-Stuart neighborhood. The Pilot training program will consist of 322 hours of instruction in a 10-week format, and will include training in the use of innovative assessment and cleanup methods. The training efforts of TEEX will be supported by organizations such as the Association of General Contractors of Texas, Dallas Workforce Development Board, and Mt. Tabor Baptist Church.

Kennedy Heights, Houston, Texas:

EPA will take the lead on site sampling planned for the Fall of 1998 in response to allegations of contamination at the largely African American subdivision in Houston, Texas.